

**U.S. District Court [LIVE]
Western District of Texas (San Antonio)
CRIMINAL DOCKET FOR CASE #: 5:20-mj-00487-HJB All Defendants**

Case title: USA v. Smith

Date Filed: 03/31/2020

Date Terminated: 04/09/2020

Assigned to: Judge Henry J.
Bemporad

Defendant (1)

Cody Donovan Smith

TERMINATED: 04/09/2020

represented by **Duty Pub. Defender–San Antonio**

Federal Public Defender

San Antonio Division

727 E. Cesar E. Chavez Blvd.

Suite B207

San Antonio, TX 78206

(210) 472–6700

Fax: 210/472–4454

Email: janie_craig@fd.org

TERMINATED: 04/06/2020

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

*Designation: Public Defender or Community
Defender Appointment*

Guillermo Lara , Jr.

Law Office of Guillermo Lara Jr.

310 S. Saint Mary's St

Suite 965

San Antonio, TX 78205

210–209–8143

Fax: 210–209–8143

Email: glaralaw@gmail.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Molly Lizbeth Roth

Federal Public Defender's Office

727 E. Cesar E. Chavez Blvd.

Room B–207

San Antonio, TX 78206–1205

(210) 472–6700

Fax: 210/472–4454

Email: molly_roth@fd.org

TERMINATED: 04/06/2020

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: Retained

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

18:1201.F–Kidnapping
18:2244B.P–Abusive Sexual
Contact

Disposition

Plaintiff

USA

represented by **Priscilla Garcia**
Assistant United States Attorney
601 N.W. Loop 410
Suite 600
San Antonio, TX 78216
(210) 384–7150
Fax: 210/384–7028
Email: priscilla.garcia@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
03/31/2020	<u>1</u>	4	Arrest (Rule 5/Rule 32.1) of Cody Donovan Smith (vs1) (Entered: 04/03/2020)
03/31/2020	<u>2</u>	8	Minute Entry for proceedings held before Judge Henry J. Bemporad:Initial Appearance in Rule 5(c)(3)/ Rule 32.1 Proceedings as to Cody Donovan Smith held on 3/31/2020 (Minute entry documents are not available electronically.) (Court Reporter FTR Gold.) (vs1) (Entered: 04/03/2020)
03/31/2020	<u>3</u>	10	MOTION to Continue, MOTION to Detain Defendant without Bond by USA as to Cody Donovan Smith. (vs1) (Entered: 04/03/2020)
03/31/2020	<u>4</u>	14	ORDER APPOINTING FEDERAL PUBLIC DEFENDER as to Cody Donovan Smith. Signed by Judge Henry J. Bemporad. (vs1) (Entered: 04/03/2020)

03/31/2020	<u>5</u>	15	ORDER OF TEMPORARY DETENTION: as to Cody Donovan Smith(Identity and Detention Hearing set for 4/7/2020 09:30 AM before Judge Richard B. Farrer,), Granted <u>3</u> MOTION to Continue filed by USA.. Signed by Judge Henry J. Bemporad. (vs1) (Entered: 04/03/2020)
04/03/2020	<u>6</u>	18	NOTICE OF ATTORNEY APPEARANCE: Molly Lizbeth Roth appearing for Cody Donovan Smith . Attorney Molly Lizbeth Roth added to party Cody Donovan Smith(pty:dft) (Roth, Molly) (Entered: 04/03/2020)
04/03/2020	<u>7</u>	19	NOTICE OF ATTORNEY APPEARANCE: Guillermo Lara, Jr appearing for Cody Donovan Smith . Attorney Guillermo Lara, Jr added to party Cody Donovan Smith(pty:dft) (Lara, Guillermo) (Entered: 04/03/2020)
04/06/2020	<u>8</u>	21	ORDER RESETTING VIDEO – IDENTITY/DETENTION HEARING as to Cody Donovan Smith, (Identity Hearing and Preliminary Hearing set for 4/7/2020 2:30 PM before Judge Richard B. Farrer,). Signed by Judge Richard B. Farrer. (cd) (Entered: 04/06/2020)
04/07/2020	<u>9</u>	22	Minute Entry for proceedings held before Judge Richard B. Farrer:Identity Hearing Waived Orally as to Cody Donovan Smith. Detention Hearing as to Cody Donovan Smith held on 4/7/2020. Defendant Ordered Detained. (Minute entry documents are not available electronically.) (Court Reporter FTR GOLD.) (kh2) (Entered: 04/09/2020)
04/07/2020	<u>10</u>	23	ORDER GRANTING <u>3</u> Motion to Detain Defendant without Bond. Bond set to NO BOND as to Cody Donovan Smith (1). Signed by Judge Richard B. Farrer. (kh2) (Entered: 04/09/2020)
04/09/2020	<u>11</u>	26	COMMITMENT TO ANOTHER DISTRICT as to Cody Donovan Smith. Defendant committed to District of District of Wyoming.. Signed by Judge Richard B. Farrer. (kh2) (Entered: 04/09/2020)

IN THE UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

FOR THE DISTRICT OF WYOMING

2020 MAR 18 PM 4:05

UNITED STATES OF AMERICA,

Plaintiff,

v.

CODY DONOVAN SMITH,

Defendant.

No.

20 CR 45 F
5A20MJ487

Ct 1: 18 U.S.C. § 1201(a)(1)
(Kidnapping)

Ct 2: 18 U.S.C. § 2244(a)(1)
(Abusive Sexual Contact)

FILED UNDER SEAL

INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT ONE

From on or about September 7, 2019, through and including September 8, 2019, in the District of Wyoming and elsewhere, the Defendant, **CODY DONOVAN SMITH**, did unlawfully seize, confine, inveigle, decoy, kidnap, abduct, and carry away, and hold the victim for the purpose of engaging in sexual contact with her, and, in committing, and in furtherance of the commission of this offense, did willfully transport the victim in interstate commerce from Idaho to Wyoming.

In violation of 18 U.S.C. § 1201(a)(1).

COUNT TWO

From on or about September 7, 2019, through and including September 8, 2019, in the District of Wyoming and within the boundaries of Yellowstone National Park, an area within the special and maritime territorial jurisdiction of the United States, the Defendant, **CODY DONOVAN SMITH**, did knowingly engage in and cause sexual contact as defined in 18 U.S.C. § 2246(3), namely intentional touching, directly and through the clothing, of the genitalia, anus,

groin, breast, inner thigh, and buttocks of the victim with the intent to abuse, humiliate, harass, degrade, and to arouse and gratify the sexual desire of any person by using force against the victim or attempted to do so.

In violation of 18 U.S.C. § 2244(a)(1).

A TRUE BILL:

Ink Signature on File

FOREPERSON



MARK A. KLAASSEN
United States Attorney

PENALTY SUMMARY

DEFENDANT NAME: CODY DONOVAN SMITH

DATE: January 21, 2020

INTERPRETER NEEDED: No

VICTIM(S): Yes

OFFENSE/PENALTIES:

Ct: 1 18 U.S.C. § 1201(a)(1)
(Kidnapping)

0 Years - Life Imprisonment
Up To \$250,000 Fine
5 Years To Life Supervised Release
\$100 Special Assessment

Ct: 2 18 U.S.C. §§ 2244(a)(1)
(Abusive Sexual Contact)

0-10 Years Imprisonment
Up To \$250,000 Fine
1-5 Years Supervised Release
\$100 Special Assessment

TOTALS: 0 Years - Life Imprisonment
Up To \$500,000 Fine
5 Years to Life Supervised Release
\$200 Special Assessment

AGENT: Jacob Olson, NPS

AUSA: Christyne M. Martens, Assistant United States Attorney

ESTIMATED TIME OF TRIAL: 1 to 5 days

WILL THE GOVERNMENT SEEK DETENTION IN THIS CASE: Yes
ARE THERE DETAINERS FROM OTHER JURISDICTIONS: No

UNITED STATES DISTRICT COURT

for the
District of Wyoming

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

MAR 18 2020

United States of America
v.

Cody Donovan Smith

Margaret Botkins, Clerk
Cheyenne
Case No. 20-CR-45-NDF-1

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
(name of person to be arrested) Cody Donovan Smith
who is accused of an offense or violation based on the following document filed with the court:

- ☒ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Ct 1: 18 U.S.C. § 1201(a)(1) (Kidnapping)
Ct 2: 18 U.S.C. § 2244(a)(1) (Abusive Sexual Contact)

Margaret Botkins
Clerk
By [Signature]
Deputy Clerk

Date: 03/18/2020

/s/ Scott W. Skavdahl
Issuing officer's signature

City and state: Casper, Wyoming

Scott W. Skavdahl, Chief United States District Judge
Printed name and title

Return

This warrant was received on (date) _____, and the person was arrested on (date) _____
at (city and state) _____

Date: _____

Arresting officer's signature

Printed name and title

RECEIVED
U.S. MARSHALS SERVICE
CHEYENNE, WY
2020 MAR 24 PM 4:44

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

USA

vs.

(1) Cody Donovan Smith

§ Case Number: SA:20-M -00487(1)

§ Distict of Wyoming

§ Date: March 31, 2020

§ Time in Court: 1:42 - 1:55 p.m.

§ SWORN ☒

§

PROCEEDING MEMO - INITIAL APPEARANCE

1. ☐ Complaint Filed _____ ☐ Arrest Warrant Issued _____
☐ Indictment _____ (Date)
☐ Information _____
☐ Prob Form 12 _____ ☒ Agency U.S. Marshal
☒ Arrested March 31, 2020
Date

2. COURT PERSONNEL:

Magistrate Judge: HENRY J. BEMPORADCourtroom Deputy: Kriston HuntInterpreter: NO

3. APPEARANCES: For the United States: PRISCILLA GARCIA-Excused

For the Defendant: _____

Address: _____

Phone: _____

Retained ☐FPD ☐CJA ☐

4. PROCEEDINGS:

a. ☒ Defendant found competent.b. ☒ Defendant informed of and received copy of charging document.**18 USC 1201; 18 USC 2244**c. ☒ Defendant informed of maximum penalty: _____

As stated on the record

d. ☒ Defendant informed of constitutional rights. Identity Hearinge. ☒ Defendant informed of right to Preliminary Examination set forApril 07, 2020 @ 09:30 AM

OR Hearing to be set and held in charging district/division.

☐ No right to Preliminary Examination. Arraignment set for: _____

4. PROCEEDINGS: (Continued)f. ☒ Defendant informed of right to legal counsel._____ 1) Defendant waives counsel, **OR**_____ 2) Defendant will try to secure counsel and provide _____
name, address of counsel retained, **OR**☒ 3) Defendant requests appointment of counsel.Defendant has completed financial affidavit. *orally*☒ a) Court finds Defendant is financially eligible and orders counsel appointed.**OR Court appoints: FPD**

_____ b) Court finds Defendant is financially ineligible and denies request.

Defendant to advise Court by _____ as to name, address of counsel retained.

g. ☒ **PRETRIAL RELEASE:**☒ 1) Government moved for detention under §3124(f).Detention Hearing set for: April 07, 2020 @ 09:30 AM☐ 2) Court SUA SPONTE "moves" for detention.

Detention Hearing set for: _____

☐ 3) Temporary detention ordered.

Bond Hearing set for: _____

☐ 4) Court orders Defendant be released on the following conditions:

_____ a) Personal recognizance.

_____ b) Defendant's bond set at _____

_____ which is unsecured.

_____ which requires _____ % deposit.

_____ which requires 100% cash/corporate/surety.

_____ c) Additional conditions of release as set forth in Order Setting Conditions of Release.

☐ 5) Detention ordered (i.e., Probation Violation).h. ☐ Temporary commitment issuedi. ☐ Preliminary Examination continued/reset toj. ☐ Preliminary Examination heldk. ☐ Probable Cause found**OR**☐ No Probable Cause foundl. ☐ Defendant held to District Courtm. ☐ Defendant waived right to an Identity hearing.n. ☐ Defendant is directed to report to charging district for further proceedings.

FILED

MAR 31 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,

v.

CODY DONOVAN SMITH

§
§
§
§
§
§
§

SA20-487M

**GOVERNMENT'S MOTION FOR DETENTION HEARING, FOR DETENTION,
AND FOR CONTINUANCE**

TO THE UNITED STATES MAGISTRATE JUDGE:

The Government, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, and pursuant to 18 U.S.C. § 3141, *et. seq.*, moves for pretrial detention of Defendant; for a detention hearing regarding the above-named Defendant; and for a continuance of said hearing. In support of these motions, the Government shows as follows:

I. MOTION FOR DETENTION HEARING

The Government requests that a hearing be set regarding detention pursuant to 18 U.S.C. § 3142(f), as this matter involves one of more of the following:

- ☒ an offense with a maximum sentence of life imprisonment or death
- ☐ a qualifying controlled substance offense with a maximum sentence of 10 years or more
- ☐ a felony offense that involves the possession or use of a firearm (including but not limited to felon in possession of a firearm), destructive device, or any other dangerous weapon
- ☐ a felony offense that is a crime of violence as defined under 18 U.S.C. § 3156(a)(4) to include a felony offense under 18 U.S.C. chapter 77, 109a, 110 or 117
- ☐ a felony offense that involves a minor victim
- ☐ an offense that involves failure to register as a sex offender under 18 U.S.C. § 2250
- ☒ a serious risk that the Defendant will flee
- ☐ a serious risk that the Defendant will obstruct or attempt to obstruct justice

II. MOTION FOR DETENTION

Grounds for detention. The Government further requests that Defendant be detained pending trial in this case pursuant to 18 U.S.C. §§ 3141(a) and 3142(e), because no condition or combination of conditions will reasonably assure:

- ☒ Defendant's appearance as required
- ☒ the safety of any other person or the community

III. MOTION FOR CONTINUANCE

Three-day continuance. Pursuant to 18 U.S.C. § 3142(f), the Government moves for a three-day continuance of the detention hearing in the matter.

IV. NOTICE OF REBUTTABLE PRESUMPTION IN FAVOR OF DETENTION

Presumption of detention. In addition, the Government gives notice that 18 U.S.C. § 3142(e)(3) establishes a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community, because there is probable cause to believe that Defendant committed:

- ☐ a qualifying controlled substance offense with a maximum sentence of 10 years or more
- ☐ an offense under 18 U.S.C. § 924(c)
- ☐ an offense under 18 U.S.C. chapter 77 for which a maximum term of imprisonment of 20 years or more is prescribed
- ☐ a qualifying offense involving a minor victim

V. NOTICE OF APPLICABILITY OF TEMPORARY DETENTION OF UP TO 10 DAYS

Temporary detention. The Government gives notice, pursuant to 18 U.S.C. § 3142(d), that Defendant is subject to temporary detention of up to ten days, as Defendant may flee or pose a danger to any other person or the community, and Defendant was:

- ☐ at the time the offense was committed, on release pending trial for a felony offense
- ☐ at the time the offense was committed, on release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence for an offense
- ☐ at the time the offense was committed, on probation or parole for an offense
- ☐ and is not, a United States citizen or not admitted lawfully for permanent residence

Respectfully submitted,

JOHN F. BASH
United States Attorney

/S/

BY:

PRISCILLA GARCIA
Assistant United States Attorney
Bar No. 07641200
601 NW Loop 410, Suite 600
San Antonio, Texas 78216-5512
Phone: (210) 384-7100

UNITED STATES MAGISTRATE COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CODY DONOVAN SMITH

Defendant.

SA20-487M

ORDER

On this date the Court considered the Government's Motion to Detain Defendant, and the Court having reviewed said motion enters the following Orders:

IT IS HEREBY ORDERED that the Defendant be temporarily detained pending a hearing on the Government's Motion and until further Order of the Court, pursuant to 18 USC 3142(f).

IT IS FURTHER ORDERED that Defendant's bond hearing is set for _____ at _____ a.m. / p.m.


SIGNED AND ENTERED on: _____

HENRY J. BEMPORAD
UNITED STATES MAGISTRATE JUDGE

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MAR 31 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

USA

§
§
§
§
§

vs.

Case No.: SA:20-M -00487(1)

(1) Cody Donovan Smith
Defendant

ORDER APPOINTING COUNSEL

The above-named defendant having satisfied this court after appropriate inquiry that he/she (1) does not wish to waive representation by counsel, and (2) is financially unable to obtain counsel, the Federal Public Defender is hereby APPOINTED to represent the defendant in the above-styled and numbered cause.

Should this case proceed before a United States District Judge, the appointment shall, nevertheless, remain in effect until terminated or a substitute attorney is appointed or retained.

SIGNED on March 31, 2020.


HENRY J. BEMPORAD
UNITED STATES MAGISTRATE JUDGE

FILED

MAR 31 2020

AO 470 (12/03) Order of Temporary Detention

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

USA

VS.

(1) Cody Donovan Smith
Defendant

§ **ORDER OF TEMPORARY DETENTION**
 § **PENDING HEARING PURSUANT TO**
 § **BAIL REFORM ACT**
 §
 § Case Number: SA:20-M -00487(1)

Upon Motion of the **GOVERNMENT**, it is ORDERED that a

IDENTITY/DETENTION HEARING

is set for April 07, 2020 * at 09:30 AM
Date Time

before U.S. MAGISTRATE JUDGE Richard B. Farrer
in the Courtroom A, on the 4th Floor in the John H. Wood, Jr. United States Courthouse, 655
East Cesar E. Chavez Boulevard, San Antonio, TX
Location of Judicial Officer

Pending this hearing, the defendant shall be held in custody by (the United States Marshal)

and produced for the hearing.

March 31, 2020
Date


HENRY J. BEMPORAD
UNITED STATES MAGISTRATE JUDGE

* If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. §3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. §3142(f) are present. Subsection (1) sets forth the grounds that may be asserted by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or or attempt to threaten, injure, or intimidate a prospective witness or juror.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

USA	§	WAIVER OF RULE 5 & 5.1 HEARINGS
	§	(Excluding Probation Cases)
vs.	§	
	§	Case Number: SA:20-M -00487(1)
(1) Cody Donovan Smith	§	
<i>Defendant</i>	§	REF: 1:20-CR-45

I, (1) Cody Donovan Smith understand that in the
District of Wyoming charges are pending
alleging violation of 18 USC 1201; 18 USC 2244

and that I have been arrested in this district and taken before a United States Magistrate, who informed me of the charge and of my right to:

(1) retain counsel or request the assignment of counsel if I am unable to retain counsel; (2) an identity hearing to determine whether I am the person named in the charge(s); (3) a preliminary hearing (unless an indictment has been returned or an information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; (4) request transfer of the proceedings to this district under Federal Rule of Criminal Procedure 20, in order to plead guilty.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

() Identity Hearing.

() Preliminary Hearing.

() Identity Hearing and I have been informed I have no right to a preliminary examination.

() Identity Hearing but request a preliminary hearing be held in the prosecuting district and therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charge is pending against me.

(1) Cody Donovan Smith, *Defendant*

Date

Counsel for Defendant

6/7/2011 Waiver of Detention Hearing

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

USA	§	
	§	
vs.	§	NO: SA:20-M -00487(1)
	§	
(1) Cody Donovan Smith	§	

WAIVER OF DETENTION HEARING

At the initial appearance, the government requested that I be detained without bond pending trial pursuant to Title 18 U.S.C. Section 3142(f).

I am aware of my right to a detention hearing and to require the government to meet its burden of proving that no conditions of release exist which will reasonably assure my appearance in court and the safety of the community. I know that if I waive my detention hearing, I will remain in custody pending trial. By signing this Waiver of Detention Hearing I acknowledge that I have no questions and understand my rights and the consequences of waiving those rights, and agree to be detained without bond pending trial.

Date

Defendant

Name of Attorney for Defendant (Print)

Date

Signature of Attorney for Defendant

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CAUSE NO. SA-20-0487-M
	§	
CODY DONOVAN SMITH	§	

NOTICE OF ATTORNEY APPEARANCE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Molly Lizbeth Roth, Assistant Federal Public Defender and enters her appearance as counsel for the defendant in the above-styled and numbered cause.

Respectfully submitted,

MAUREEN SCOTT FRANCO
Federal Public Defender

/s/ MOLLY LIZBETH ROTH
Assistant Federal Public Defender
727 E. César E. Chávez Blvd., Suite B-207
San Antonio, Texas 78206-1205
State Bar No. 24040140
Tel.: 210-472-6700
Fax: 210-472-4454

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of April, 2020, I filed the foregoing Notice of Attorney Appearance using the CM/ECF system which will give electronic notification to the following:

Priscilla Garcia
Assistant United States Attorney
601 NW Loop 410, Suite 600
San Antonio, Texas 78216

/s/ MOLLY LIZBETH ROTH
Assistant Federal Public Defender

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA	§	
vs.	§	Case No: 5:20-MJ-00487-HJB
CODY D. SMITH	§	

NOTICE OF APPEARANCE OF COUNSEL

PLEASE TAKE NOTICE that GUILLERMO LARA has been retained to represent Defendant CODY SMITH in the above referenced matter.

RESPECTFULLY SUBMITTED:

/s/ Guillermo Lara Jr.

GUILLERMO LARA JR.
State Bar of Texas No. 24071138
310 S. St Mary's St., Ste. 965
San Antonio, Texas 78205
Phone: 210-997-6363
Fax: 210-455-0153

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2020, I filed the foregoing with the Clerk of the Court by CM/ECF System, which will send notification of such filing to the appropriate parties, including:

Priscilla Garcia
Assistant United States Attorney
601 NW Loop 410, #600
San Antonio, Texas 78216
Phone: (210) 384-7025
Email: priscilla.garcia@usdoj.gov
ATTORNEY TO BE NOTICED

/s/ Guillermo Lara Jr.

GUILLERMO LARA JR.
ATTORNEY FOR DEFENDANT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA
Plaintiff

vs.

(1) CODY DONOVAN SMITH
Defendant

§
§
§
§
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§

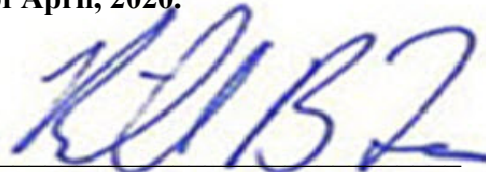
Case Number: SA:20-M -00487(1)

ORDER RESETTING VIDEO - IDENTITY/DETENTION HEARING

IT IS HEREBY ORDERED that the above entitled and numbered case is set for **02:30 PM, in Courtroom A, on the 4th Floor in the John H. Wood, Jr. United States Courthouse, 655 East Cesar E. Chavez Boulevard, San Antonio, TX on Tuesday, April 07, 2020.**

IT IS FURTHER ORDERED that the Clerk of Court shall send a copy of this order to the defendant, counsel for defendant, the United States Attorney, U.S. Pretrial Services, and United States Probation Office. Further, counsel for the defendant shall notify the defendant of this setting. If the defendant is on bond, he/she shall be present.

IT IS SO ORDERED this **6th day of April, 2020.**



RICHARD B. FARRER
UNITED STATES MAGISTRATE JUDGE

IDENTITY/DETENTION HEARING

CASE NO. SA:20-M -00487(1) LOCATION: SAN ANTONIO, TEXAS

DEFENDANT'S NAME #1 Cody Donovan Smith ATTORNEY FOR DEFENDANT: #1 [Ret] Guillermo Lara

JUDGE: RICHARD B. FARRER AUSA: Priscilla Garcia
 DEPUTY CLERK: Amy Jackson INTERPRETER: ☐ Yes ☒ No
 COURT REPORTER: FTR GOLD PROB. OFFICER: Present
 DATE: Tuesday, April 07, 2020 PRETRIAL OFFICER: Present
 TIME IN COURT: 2:30-3:18 (48 mins)

DFT NO.

PROCEEDINGS

1

<input type="checkbox"/>	ARRAIGNMENT HELD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	ARRAIGNMENT RESET TO: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	NOT GUILTY	<input type="checkbox"/>	1. COUNT _____	<input type="checkbox"/>	2. COUNT _____
		<input type="checkbox"/>	3. COUNT _____	<input type="checkbox"/>	4. COUNT _____
<input type="checkbox"/>	DEFENDANT FAILS TO APPEAR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	COURT ORDERS BENCH WARRANT TO BE ISSUED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	PRELIMINARY HEARING/REVOCATION HELD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	PROBABLE CAUSE FOUND	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	PRELIMINARY HEARING/REVOCATION RESET TO: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	NO PROBABLE CAUSE FOUND/CASE DISMISSED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	DETENTION HEARING HELD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	DEFENDANT ORDERED DETAINED W/O BOND	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	BOND SET:	<input type="checkbox"/>	1. \$ _____	<input type="checkbox"/>	2. \$ _____
		<input type="checkbox"/>	3. \$ _____	<input type="checkbox"/>	4. \$ _____
<input type="checkbox"/>	DEFENDANT UNABLE TO RETAIN COUNSEL COURT APPOINTS: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	DETENTION HEARING RESET TO: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OTHER: Case called. Parties announce ready. All proceedings were held by video conference and all parties consented. Identity waived on record. Witness Jake Olson was called to testify. Def detained.

UNITED STATES DISTRICT COURT

for the
Western District of Texas

FILED

APR 07 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]

DEPUTY CLERK

Case No. 5:20-mj-487

United States of America)

v.)

Cody Donovan Smith
Defendant)

DETENTION ORDER

Part I - Eligibility for Detention

Upon motion of: ☒ the Government, in a case involving an **enumerated offense**, 18 U.S.C. § 3142(f)(1), or
☒ the Government or Court, in a case involving a **serious flight risk**, 18 U.S.C. § 3142(f)(2)(A), or
☐ the Government or Court, in a case involving **serious obstruction risk**, 18 U.S.C. § 3142(f)(2)(B),

the Court held a detention hearing and found that detention is warranted. This order sets forth the Court's findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

- ☐ **A. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3) (narcotics, firearm, other offenses):** There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed an offense:
- ☐ (1) for which a maximum term of imprisonment of 10 years or more is prescribed in the **Controlled Substances Act** (21 U.S.C. §§ 801-904), the **Controlled Substances Import and Export Act** (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
 - ☐ (2) under 18 U.S.C. §§ 924(c) (**firearm**), 956(a) (**violent foreign conspiracy**), or 2332b (**terrorism**);
 - ☐ (3) listed in 18 U.S.C. § 2332b(g)(5)(B) (**terrorism-related offenses**) for which a maximum term of imprisonment of 10 years or more is prescribed;
 - ☐ (4) under 18 U.S.C. §§ 1581-1597 (**slavery and human trafficking**) for which a maximum term of imprisonment of 20 years or more is prescribed; or
 - ☐ (5) involving a **minor victim** under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.
- ☐ **B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2) (prior pretrial release violator):** There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:
- ☐ (1) the defendant is **charged with one of the following crimes** described in 18 U.S.C. § 3142(f)(1):
 - ☐ (a) a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; or
 - ☐ (b) an offense for which the maximum sentence is life imprisonment or death; or

- ☐ (c) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); **or**
- ☐ (d) any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; **or**
- ☐ (e) any felony that is not otherwise a crime of violence but involves:
 - (i) a minor victim; (ii) the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921); (iii) any other dangerous weapon; or (iv) a failure to register under 18 U.S.C. § 2250; **and**
- ☐ (2) the defendant has **previously been convicted** of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; **and**
- ☐ (3) the **prior conviction described in paragraph (2)** involves an offense **committed while the defendant was on release pending trial** for a Federal, State, or local offense; **and**
- ☐ (4) a period of **not more than five years has elapsed** since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

C. Conclusions Regarding Applicability of Any Presumption Established Above

- ☐ The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis. (*Part III need not be completed.*)

OR

- ☐ The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

Part III - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because:

- ☒ **Flight Risk:** The government proved by a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.
- ☒ **Dangerousness:** The government proved by clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

- ☒ Nature of offense (drugs, violence, firearm, explosive, child sex trafficking, minor victim, terrorism)
- ☒ Subject to lengthy period of incarceration if convicted
- ☐ Weight of evidence against the defendant is strong (least important factor)
- ☐ History of violence or use of weapons
- ☐ Prior attempt(s) to evade law enforcement or escape
- ☐ Prior criminal history
- ☐ Prior failure(s) to appear in court as ordered
- ☐ On probation, parole, or supervision during the current offense/arrest
- ☐ Prior violations of probation, parole, or supervised release
- ☐ Lack of stable residence in this district
- ☐ Lack of legal status in the United States, or subject to removal/deportation after incarceration
- ☐ Lack of significant family ties to this district
- ☐ Significant family or other ties outside the United States
- ☐ Lack of significant community ties to this district
- ☐ Lack of stable employment in this district
- ☐ Lack of financially responsible sureties
- ☐ Prior dishonest conduct, false statements, or fraud
- ☐ Use of alias(es) or false documents
- ☐ History of alcohol or substance abuse
- ☐ Lack of financial ties to this district
- ☐ Unstable mental condition

OTHER REASONS OR FURTHER EXPLANATION:

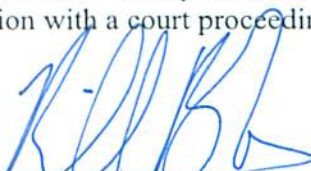
All the reasons stated on the record at the detention hearing.

As stated in The Pretrial Services Report.

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.


Date: 4/7/2020


Honorable Richard B. Farrer
United States Magistrate Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

APR 09 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

UNITED STATES OF AMERICA

vs.

(1) CODY DONOVAN SMITH

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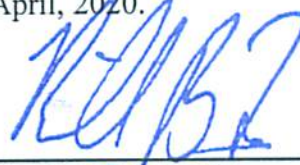
NO: SA:20-M -00487(1)

Ref:20CR45

ORDER OF REMOVAL

The Defendant, **(1) CODY DONOVAN SMITH**, is charged in a proceeding in the **District of Wyoming**, and has been arrested in the Western District of Texas. Copies of the charging document or judgment and warrant have been produced and identity has been established. Defendant, having been advised of the right to an identity hearing, acknowledged on the record under oath that he is the same person named in the warrant. Therefore, the United States Marshal for the Western District of Texas is directed to deliver the defendant to the United States Marshal or other designated officer in the prosecuting district.

It is so ORDERED and SIGNED on 9th day of April, 2020.



RICHARD B. FARRER
UNITED STATES MAGISTRATE JUDGE